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JCWS/CS 02 JUL 2004

CARR & FERRELL LLP

NO. 026 P. 1

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**CARR & FERRELL LLP**

ATTORNEYS AT LAW

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**FACSIMILE COVER SHEET**

**To:** Office of Initial Patent Examination  
**Company:** United States Patent & Trademark Office  
**Fax Number:** (703) 746-9195

**From:** Susan Yee  
**Phone Number:** (650) 812-3423  
**Fax Number:** (650) 812-3444

**Date:** July 2, 2004  
**Total pages:** 14 (includes cover sheet)

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**MESSAGE:**

Please see attached.

{00115368v1}

PTO/SB/21 (02-04)

Approved for use through 07/31/2006. OMB 0651-0091  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL  
FORM

(to be used for all correspondence after initial filing)

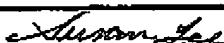
		Application Number	10/764,403
		Filing Date	January 23, 2004
		First Named Inventor	Key
		Art Unit	1733
		Examiner Name	Unknown
Total Number of Pages in This Submission	5	Attorney Docket Number	PA2644US

## ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Remarks	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
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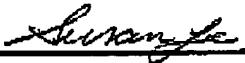
Amendment will be sent via facsimile only. No Courtesy Copy by Mail will follow.

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Carr & Ferrell LLP Cust. No. 22830	
Signature		
Date	Reg. No. 41,988 May 17, 2004	

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Susan Yee	
Signature		Date
	May 17, 2004	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Key

APPL. NO.: 10/764,403

FILED: January 23, 2004

TITLE: Rotatable Label System and Method

EXAMINER: Unknown

GROUP ART UNIT: 1733

CONF. NO.: 9494

ATTY.DKT.NO.: PA2644US

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## CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being faxed to the Office of Initial Patent Examination via facsimile number 703 746 9195 on July 2, 2004.

By: Susan Yee  
Susan Yee

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OFFICE OF INITIAL PATENT EXAMINATION  
COMMISSIONER FOR PATENTS  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450

## SECOND REQUEST FOR CORRECTED FILING RECEIPT

SIR:

Applicants hereby request that the United States Patent and Trademark Office further correct its records and issue a second corrected filing receipt showing the correct domestic priority data.

{00119447v1}

Specifically, the OIPE mailed a *Response to Request for Correct Filing Receipt* dated June 3, 2004 (enclosed) stating “[a] claim for priority cannot be made based on an application filed after the application making the claim” and then highlights the claim to U.S. patent application number 09/866,219 filed on March 25, 2001. This refusal to grant the benefit claim to this application is in error as the present application—filed January 23, 2004—seeks to claim the benefit of an application via 35 U.S.C. § 120 of an application filed almost three years earlier and not, as the *Response* indicates, after the application making the claim.

As such, the applicant respectfully requests the Patent Office update its records to reflect the following priority claim as indicated on the attached annotated corrected filing receipt:

“This application is a CON of 10/112,542 03/27/2002, abandoned, which is a CIP of 09/866,219 05/25/01 PAT 6,631,578 which is a CON of 09/273,232 03/18/99 PAT 6,237,269 and which is a CIP of 09/551,985 04/15/00 PAT 6,402,872 which is a CIP of 09/126,010 07/29/98 PAT 6,086,697 and claims the benefit of 60/279,236 03/27/01; and said 10/112,542 03/27/2002 and is a CON of 10/005,428 12/03/2001 which is a DIV of 09/551,985 04/15/00 PAT 6,402,872 06/11/02 which is a CIP of 09/126,010 07/29/98 PAT 6,086,697 07/11/00.

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{00119447v1}

For reference purposes, applicant also encloses a copy of the preliminary amendment filed May 17, 2004 that better clarified—but did not alter—the priority benefit claim in the present application.

Respectfully submitted,  
Stephen M. Key

July 2, 2004

By:

Susan Yee  
Susan Yee, Reg. No. 41,388  
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(00119447v1)

PAGE 4/14 \* RCVD AT 7/2/2004 1:25:58 PM [Eastern Daylight Time] \* SVR:USPTO-EFXRF-2/2 \* DNI:7469195 \* CSID:6508123444 \* DURATION (mm:ss):03:28



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
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APPL. NO.	FILING OR 371 (c) DATE	ART UNIT	FIL. FEE REC'D	ATTY. DOCKET NO.	DRAWINGS	TOT CLMS	IND CLMS
10/764,403	01/23/2004	1733	509	PA2644US	20	29	4

## CONFIRMATION NO. 9494

22830  
 CARR & FERRELL LLP  
 2200 GENG ROAD  
 PALO ALTO, CA 94303

## CORRECTED FILING RECEIPT



\*OC000000012713806\*

Date Mailed: 06/03/2004

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

## Applicant(s)

Stephen M. Key, Modesto, CA;

## Domestic Priority data as claimed by applicant

which is a CIP of This application is a CON of 10/112,542 03/27/2002, , Abandoned  
 09/886,019 01/19/2001 which is a CIP of 09/551,985 04/15/2000 PAT 6,402,872  
 PAT 6631578 and said 10/112,542 03/27/2002 and claims the benefit of 601879,256 3/07/01;  
 10/1403. AND is a CON of 10/005,428 12/03/2001  
 which is a CON which is a DIV of 09/551,985 04/15/2000 PAT 6,402,872  
 of 09/073802 3/18/99 PAT 6237269 5/29/01 AND

## Foreign Applications

If Required, Foreign Filing License Granted: 04/30/2004

Projected Publication Date: 08/28/2004

Non-Publication Request: No

Early Publication Request: No

\*\* SMALL ENTITY \*\*

**Title**

Rotatable label system and method

**Preliminary Class**

156

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**LICENSE FOR FOREIGN FILING UNDER  
Title 35, United States Code, Section 184  
Title 37, Code of Federal Regulations, 5.11 & 5.15**

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related application(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Assistant Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371(c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/764,403	01/23/2004	Stephen M. Key	PA2644US

22830  
 CARR & FERRELL LLP  
 2200 GENG ROAD  
 PALO ALTO, CA 94303

CONFIRMATION NO. 9494



\*OC000000012713922\*

Date Mailed: 06/03/2004

## RESPONSE TO REQUEST FOR CORRECTED FILING RECEIPT

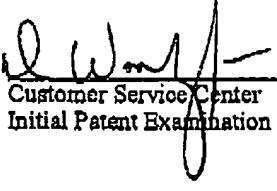
## Domestic Continuity and Foreign Priority

In response to your request for a corrected Filing Receipt, the Office is unable to comply with the request because:

- The priority or continuity claim has not been entered because it was not filed during the required time period. Applicant may wish to consider filing a petition to accept an unintentionally delayed claim for priority. See 37 CFR 1.55 or 1.78.
- Continuity claimed under 35 U.S.C. § 120 cannot be added to the Filing Receipt without the applicant supplying the relationship (continuation, divisional, or continuation-in-part) in an Application Data Sheet or amendment to the first page of the specification.
- A claim for priority cannot be made based on an application filed after the application making the claim. *09/866,219 5/25/01*
- Domestic benefit and foreign priority claims will not be captured in a provisional application. A provisional application is not entitled to a right of priority or to the benefit of an earlier filing date of any other application. See 35 U.S.C. § 111(b)(7) and 37 CFR 1.53(c)(4).
- A domestic continuity claim cannot be made to a foreign application and the filing receipt will only list the foreign country, application number, and filing date.
- Foreign priority will appear on the Filing Receipt in the following order: **Country, Application number, Filing date.**
- This application is the result of a conversion from a provisional application. Priority based on such application cannot be made since it no longer exists as a provisional application.
- The application(s) to which priority is claimed were filed over a year prior to the filing date of this

application. Therefore, the referenced application(s) cannot be claimed as domestic or foreign priority.

- To change the benefit claim of a U.S. prior-filed application, applicant must amend the first sentence of the specification (if the benefit claim is referenced in the specification), or provide a supplemental application data sheet (ADS) (if the benefit claim was submitted in an ADS), with the desired benefit claim. Note that once a benefit claim is deleted, applicant will not be able to claim such prior-filed application again, if the above-identified application was filed on or after November 29, 2000.
- To change a foreign priority claim, applicant must submit a supplemental oath or declaration (if the priority claim is referenced in the oath or declaration), or a supplemental application data sheet (ADS) (if the priority claim was submitted in an ADS), with the desired priority claim. If a supplemental ADS is submitted, any deletions should be shown with strikeouts. Note that once a priority claim is deleted, applicant will not be able to claim such foreign application again, if the above-identified application was filed on or after November 29, 2000.

  
Customer Service Center  
Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY